

● ORIGINAL ●

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE, :
Plaintiff :
: No. 1:CV-00-0895
v. :
: (Magistrate Judge Smyser) —
ROBERT W. MEYERS, et al., :
Defendants :

STATEMENT OF MATERIAL FACTS

1. Plaintiff is Terrance Montague, an inmate incarcerated at the State Correctional Institution at Rockview, Pennsylvania. (Complaint/Answer, generally).

2. Defendants are various officials and employees at SCI-Rockview, including the Superintendent, Robert W. Meyers, and the former Secretary of the Pennsylvania Department of Corrections, Martin Horn. (Complaint/Answer, generally; Supplemental Complaint/Answer to the Supplemental Complaint).

3. Plaintiff is serving a 4-15 year sentence for convictions of aggravated assault, possession of instruments of crime and other offenses. (Deposition of Plaintiff, pp.5-6).

4. Plaintiff was transferred to SCI-Rockview from SCI-Greensburg in May 1999. (Allar Declaration, ¶5, Deposition of Plaintiff, p.4).

52 fm
1/11/01
FILED
HARRISBURG
PAUL J. D'ANDREA CLERK
BETH A. CLERK
JUL 10 2001

5. Between May 1999 and April 2001, plaintiff was housed in various locations, including A-block, the Restricted Housing Unit (RHU), the infirmary and the mental health unit at SCI-Rockview, as well as a temporary transfer to SCI-Waymart. (Allar Declaration, ¶5).

6. With respect to the periods of time about which plaintiff complains in his complaint, plaintiff was housed in cell 2017 on A-block from 12/27/99 to 1/4/00; on 1/4/00 plaintiff was transferred to the RHU. From 2/7/00 to 2/29/00, plaintiff was housed in cell 5018 on A-block. On 2/29/00, plaintiff was moved to cell 5014 and then to cell 3018. From 4/27/00 to 5/3/00, plaintiff was housed in cell 3032 and then was moved to cell 1038. (Allar Declaration, ¶6).

7. Plaintiff was transferred to B-block, the non-smoking block, on April 30, 2001. (Allar Declaration, ¶7)

8. Until plaintiff was transferred to the non-smoking block, the Unit Manager on A-block attempted to accommodate plaintiff's requests to be celled with an inmate of his choice, within the constraints of trying to accommodate the housing needs of over 400 inmates on the block. (Allar Declaration, ¶¶7-8).

9. The Unit Manager was not advised by medical staff at SCI-Rockview that plaintiff had a medical restriction that required a non-smoking

cellmate. (Allar Declaration, ¶9).

10. Plaintiff was given the opportunity to transfer to the non-smoking block in February 2001, but he declined. (Allar Declaration, ¶¶10-12; Deposition of Plaintiff, pp. 13-14 and Exhibit 2).

11. When plaintiff agreed to abide by the rules and procedures of the non-smoking block, which include the non-possession of tobacco products, he was transferred to the non-smoking block. (Allar Declaration, ¶¶ 10,11,13; Deposition of Plaintiff, p.11 and Exhibit 1).

12. In December 2000, Plaintiff was transferred from SCI-Rockview to SCI-Waymart for assessment of needs and treatment possibilities. (Supplemental Pleading/Answer, ¶3).

13. Plaintiff returned to SCI-Rockview from SCI-Waynmart in three (3) weeks. (Deposition of Plaintiff, p.50).

14. The administration at SCI-Rockview has no plans to transfer plaintiff from B-block. (Kerstetter Declaration, ¶¶ 1-4).

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:

Gregory Neuhauser
GREGORY R. NEUHAUSER
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
717-787-8106

DATE: July 10, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE, :
Plaintiff :
: No. 1:CV-00-0895
v. :
: (Magistrate Judge Smyser)
ROBERT W. MEYERS, et al., :
Defendants :
:

CERTIFICATE OF SERVICE

I, GREGORY R. NEUHAUSER, Senior Deputy Attorney General
for the Commonwealth of Pennsylvania, Office of Attorney General, hereby
certify that on July 10, 2001, I caused to be served a true and correct copy of the
foregoing document **Statement of Material Facts** by depositing it in the United
States mail, first-class postage prepaid to the following:

Terrance Montague, BZ-2761
SCI-Rockview
Box A
Bellefonte, PA 16823-0820



GREGORY R. NEUHAUSER
Senior Deputy Attorney General